Doc # 4502

MEMORANDUM SEPTEMBER 27, 1984

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: STEPHEN F. COYLE, DIRECTOR

SUBJECT: IMPLEMENTATION OF THE SECOND PHASE REHABILITATION OF THE WALTER BAKER COMPLEX IN DORCHESTER LOWER MILLS

In October, 1982 the Authority authorized the Director to execute documents necessary to effectuate its role in the first phase of the development of the former Walter Baker Complex located in Dorchester Lower Mills. A copy of that Memorandum and Vote is attached.

The first phase, described in the attached October, 1982 Memorandum, is complete and the developer, Lower Mills Limited Partnership, Robert Kuehn, Jr., General Partner, now wishes to commence Phase II of the project: construction of 80 units of moderate and market rate housing (not less than 30% moderate) in the Pierce and Preston Mills portion of the complex. The proposed unit mix is 3 studios, 49 one bedrooms, and 28 two bedrooms. After a ten year period, apartments may be converted to some form of home ownership, reapplying UDAG funds to assist the moderate income buyers. The financing package includes a $2,018,100 permanent loan from the Massachusetts Government Land Bank, a $2,166,900 permanent loan from Chemical Business Credit Corporation and a $1,200,000 UDAG through the Neighborhood Development and Employment Agency. $750,000 of syndication proceeds will be invested in an "endowment" escrow account to reduce rents.

The Baker Complex renovations are an integral part of the on-going revitalization of the Lower Mills neighborhood. The developer is working with the City to solve a parking shortage in the neighborhood which affects residents as well as commercial users. In addition, the Massachusetts Legislature has approved a capital outlay of $3.9 Million for a Heritage State Park to be centered on the Mill complex.

The attached Purchase and Repurchase Agreement for Phase II of this project is substantially the same as that for Phase I. The Land Bank conveys to the Authority and, virtually simultaneously, the Authority conveys to the developer. The Authority is protected

from financial liability in the Agreement itself and, as with Phase I, a separate, general indemnification will be provided by the developer.

I recommend that the following Vote be taken.

VOTED: That the Director be, and hereby is, authorized to execute a Purchase and Repurchase Agreement substantially in the form attached hereto; that the Director is further authorized to execute whatever assurances are needed to effectuate the terms of that agreement.

MEMORANDUM OCTOBER 28, 1982

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: IMPLEMENTATION OF THE FIRST PHASE REHABILITATION OF THE WALTER BAKER COMPLEX IN DORCHESTER LOWER MILLS

As you are aware, the Authority and the City have been on a strategic course to revitalize the former Walter Baker complex in Lower Mills and have approved a Commercial Area Revitalization Plan and the necessary UDAG grant. The Massachusetts Government Land Bank has agreed to provide a permanent loan for $3,300,000 and the Shawmut Bank has committed for the construction loan financing. All zoning approvals and other regulatory approvals have been attained. However, in order to proceed, it is necessary that a local public agency like the Authority be the technical mortgage holder of any State Land Bank funds.

The attached agreement outlines the Authority's involvement, which, basically, is that the property will be improved utilizing construction loan financing and equity financing by Lower Mills Associates for approximately $3,300,000 and will be immediately purchased by the Land Bank for the same dollar amount and reconveyed to the Authority, utilizing a no-recourse purchase money mortgage. The Authority would then reconvey the property, burdened by the mortgage from the Land Bank, to the Lower Mills Associates.

The Authority is clearly a public intermediary agency in order for the Land Bank to be able to invest in this purchase under the State limitations on bonding. However, the staff has incorporated into the agreements an explicit requirement that there is no recourse for the default to the Authority, that the only recourse of the Land Bank or others is to the land and buildings as improved. Therefore, there is no financial risk on the part of the Authority who would be the major conduit to implement this important revitalization of Lower Mills.

This first phase will result in the Adams Mill portion of the complex being converted into 58 units of moderate-income housing with the UDAG funds being utilized to keep the rents down. This is a complex and unusual project. The participation of the Authority will give further evidence of the strong cooperation between the private and public sectors to find solutions to unique and unusual projects in order to accomplish new moderate-income housing for the neighborhoods of the city. This is in compliance with the Mayor's announced revitalization plan for this area.

I urge the Authority to authorize the execution of the attached agreement in substantially the form as attached, whereby the Authority will be agreeing to implement the simultaneous purchase and mortgage agreement at the time of the completion of the rehabilitation.

VOTED: That the Director be, and hereby is, authorized to execute the Purchase and Repurchase Agreement dated October 28, 1982, substantially in the form as attached; and is further authorized to execute whatever assurances are needed to effectuate the terms of that agreement.

SEP 18 1984

CERTIFICATE OF VOTE

The undersigned hereby certifies as follows:

(1) That he is the duly qualified and Acting Secretary of the Boston Redevelopment Authority, hereinafter called the Authority, and the keeper of the records, including the journal of proceedings of the Authority.

(2) That the following is a true and correct copy of a vote as finally adopted at a meeting of the Authority held on October 28, 1982 and duly recorded in this office:

Copies of a memorandum dated October 28, 1982 were distributed re Implementation of the First Phase Rehabilitation of the Walter Baker Complex in Dorchester Lower Mills, attached to which were copies of a letter dated October 8, 1982 from Frank Keefe Associates, Inc.; two letters dated April 27 and 28, 1981 from the Dorchester Lower Mills Civic Association, Inc; a letter dated April 6, 1981 from Lower Mills Merchants Association; a letter dated June 8, 1981 from St. Gregory's Church; a letter dated June 8, 1981 from Blaney Memorial Baptist Church; a letter dated May 5, 1981 from Building and Construction Trades Council of the Metropolitan District; a letter dated May 29, 1981 from the Massachusetts Department of Environmental Affairs; two newspaper articles; a 35 page Purchase and Repurchase Agreement dated October 28, 1982; and a proposed vote.

On motion duly made and seconded, it was unanimously

VOTED: That the Director be, and hereby is, authorized to execute the Purchase and Repurchase Agreement dated October 28, 1982, substantially in the form as attached; and is further authorized to execute whatever assurances are needed to effectuate the terms of that agreement.

The aforementioned Purchase and Repurchase Agreement dated October 28, 1982 is filed in the Document Book of the Authority as Document No. 4249.

(3) That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting, and a legally sufficient number of members of the Authority voted in a proper manner and all other requirements and proceedings under law incident to the proper adoption or the passage of said vote have been duly fulfilled, carried out and otherwise observed.

(4) That the Purchase and Repurchase Agreement to which this certificate is attached is in substantially the form as that presented to said meeting.

(5) That if an impression of the seal has been affixed below, it constitutes the official seal of the Boston Redevelopment Authority and this certificate is hereby executed under such official seal.

(6) That Robert J. Ryan is the Director of this Authority.

(7) That the undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF the undersigned has hereunto set his hand this 8th day of November 19 82.

BOSTON REDEVELOPMENT AUTHORITY

LS

By Kane Simonian
Secretary

PURCHASE AND REPURCHASE AGREEMENT

THIS AGREEMENT entered into this _____ day of September, 1984, by and among the Government Land Bank ("Land Bank"), Boston Redevelopment Authority ("Boston"), Lower Mills Associates ("Associates") and Lower Mills Limited Partnership ("Partnership")

W I T N E S S E T H T H A T :

WHEREAS, at the direction of and pursuant to its agreement with Partnership, Associates has acquired or will acquire the Real Estate, as hereinafter defined; and

WHEREAS, Associates has submitted to Land Bank a redevelopment plan for the Real Estate for approval by Land Bank in accordance with Chapter 212 of the Acts of 1975, as amended; and

WHEREAS, the parties wish to provide for the acquisition of the Real Estate by Land Bank from Associates following completion of certain improvements to be undertaken by Associates at the direction of and pursuant to its agreement with Partnership, and ultimate conveyance of the Real Estate by the Land Bank to Partnership through an intermediary conveyance to Boston, subject to a purchase money mortgage and the provisions of this Agreement;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

For the purpose of this Agreement, the following terms have the meanings ascribed to them below:

(a) "Associates" shall mean Lower Mills Associates, a Massachusetts general partnership of which Robert H. Kuehn, Jr. is the sole General Partner, with its offices in Cambridge, Massachusetts;

(b) "Boston" shall mean the Boston Redevelopment Authority, as established and existing under Chapter 121B of the General Laws, with its offices in Boston, Massachusetts;

(c) "Land Bank" shall mean the Government Land Bank, as established and existing under Chapter 212 of the Acts of 1975, as amended, with its offices in said Boston;

(d) "Partnership" shall mean Lower Mills Limited Partnership, of which Robert H. Kuehn, Jr. is the sole General Partner, with its offices in said Cambridge;

(e) "Real Estate" shall mean certain parcels of land located in the Dorchester area of said Boston, more particularly described on Schedule A attached hereto; and

(f) "BayBank" shall mean BayBank Harvard Trust Company, a Massachusetts corporation with its principal offices in said Cambridge;

ARTICLE II: ACQUISITION BY LAND BANK FROM ASSOCIATES

A: PURCHASE PRICE

(a) Associates hereby agrees to sell and Land Bank agrees to buy, upon the terms hereinafter set forth, the Real Estate. The agreed purchase price for the Real Estate is Two Million, Eighteen Thousand One Hundred Dollars ($2,018,100). Said purchase price is to be paid at the time of the conveyance of the Real Estate pursuant to Article II-C. Water and sewer use charges and real estate taxes for the then current fiscal year shall be apportioned as of said time, and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by Land Bank. If the amount of said taxes is not then known, they shall be apportioned on the basis of the taxes assessed for the preceding year, with a reapportionment as soon as the new tax rate and valuation can be ascertained, provided however that if any taxes apportioned hereunder are thereafter reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties. No party shall be obligated to institute or prosecute proceedings for any such abatement.

(b) Land Bank has approved a redevelopment plan submitted by Associates in accordance with Chapter 212 of the Acts of 1975, as amended. A copy of said plan is attached hereto as Exhibit 1. As a condition precedent to the obligations of Land Bank hereunder, said plan as well as the Guidelines attached hereto as Exhibit 2 shall be complied with in all respects.

(c) As a further condition precedent to the obligations of Land Bank hereunder, Land Bank shall have received an appraisal of the Real Estate establishing its value in an amount satisfactory to Land Bank.

B: CONDITION AND POSSESSION

(a) Associates agrees that on the date of conveyance to Land Bank as provided in Article II-C, Associates will have substantially completed all work described on Schedule B attached hereto, which work is being completed at the direction of and pursuant to the requirements of Partnership. Said work shall be deemed substantially complete only upon issuance of a certification by a licensed architect or engineer retained by Land Bank acknowledging such substantial completion in conformity with the standards set forth in American Institute of Architects Document A201, 13th ed. (1976), entitled "General Conditions of the Contract for Construction". Financing of said work shall be extended by BayBank or pursuant to such other construction loan arrangements as may be approved by Land Bank. The Real Estate shall be conveyed free of all tenants and occupants not theretofore approved by Land Bank and shall include, as part thereof, no fewer than eighty (80) permanent parking spaces in a location satisfactory to Land Bank, for the exclusive use of tenants and occupants of the Real Estate.

(b) With respect to the period preceding conveyance of the Real Estate to Land Bank, Associates shall indemnify and save harmless Land Bank, its officers, agents, servants and employ-

ees from and against all loss, liability, damage and expense resulting from or based upon any injury to person, or loss of or damage to property sustained or occurring on the Real Estate on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever (other than Land Bank or its officers, contractors, agents, servants or employees). Land Bank shall at all reasonable times have free access to the Real Estate and all work being performed thereon for the purposes of inspecting the same or having the same inspected by others, or for any other reason.

C: CONVEYANCE PROVISIONS

Conveyance of the Real Estate to Land Bank shall be made promptly following issuance of the certificate of substantial completion referred to in Article II-B on a date and at a time mutually agreed upon in writing by the parties hereto. Such conveyance and transfer shall take place at the offices of Gaston Snow & Ely Bartlett, One Federal Street, Boston, Massachusetts, or at such other place as may be agreed upon in writing by the parties hereto. At such time and place Associates shall deliver to Land Bank a quitclaim deed conveying to Land Bank good and clear record and marketable title to the Real Estate, subject to and with the benefit of any encumbrances appearing in Schedule A hereto, and will cause to be delivered to Land Bank either (a) an ALTA Standard Form of Owners Title Insurance Policy dated as of the date of closing in an amount not less than the Purchase Price set forth

in Article II-A, and in the form attached hereto as Exhibit 3 or (b) an opinion of counsel satisfactory to Land Bank, dated as of the date of closing, certifying that Land Bank, upon recording of the deed from Associates to Land Bank, acquired a good and clear record and marketable title to the Real Estate, subject only to the foregoing encumbrances and any others approved by Land Bank.

D: FAILURE TO PERFECT TITLE

If Associates shall be unable to give title to or make conveyance or deliver possession of the Real Estate, all as herein stipulated, or if Boston or Partnership will not thereafter be willing or able to comply with its obligations as set forth in this Agreement, then this Agreement shall become null and void and without legal or equitable recourse to either party. Notwithstanding the foregoing, Land Bank may elect to accept such title and possession as Associates can deliver with respect to the Real Estate, and to pay the purchase price therefor without allowance or deduction of any kind.

ARTICLE III: CONVEYANCE FROM LAND BANK TO BOSTON

A: DUTY TO CONVEY

If and only if Land Bank acquires title to the Real Estate in accordance with the foregoing provisions, and forthwith upon such acquisition, Land Bank shall sell to Boston and Boston shall purchase from Land Bank the Real Estate in accordance with the provisions hereinafter set forth. Land Bank shall

have no liability whatsoever in the event that, for any reason other than its own default under this agreement, Land Bank does not acquire title to the Real Estate.

B: PURCHASE PRICE

The agreed purchase price payable by Boston for the Real Estate is an amount equal to the sum of the total purchase price paid by Land Bank to acquire the Real Estate from Associates as provided in Article II-A. Simultaneously with such payment, and as a further condition to conveyance of the Real Estate to Boston, the Partnership shall pay to Land Bank, in cash or by certified check, an amount equal to the sum total of all expenses, including but not limited to architectural and engineering costs and legal fees, incurred by Land Bank in connection with the negotiation, execution and performance of this Agreement. The aforesaid purchase price is to be paid by the execution, acknowledgement and delivery to Land Bank, upon the conveyance of the Real Estate to Boston, of a promissory note and purchase money mortgage in the forms attached hereto as Exhibits 4 and 5 respectively, together with such other assurances and opinions as counsel for Land Bank may reasonably require (including without limitation assurances that any obligation to provide relocation assistance to displaced persons has been satisfied), all of which shall be furnished without expense to Land Bank. Boston and Land Bank shall concurrently enter into the Land Use Restriction Agreement referenced in said mortgage in the form attached hereto as Exhibit 6.

C: CONDITION AND POSSESSION; CONVEYANCE

(a) The Real Estate shall, at the time of the conveyance thereof to Boston, be accepted in conformity with the provisions of Article II-B(a).

(b) At such time, Land Bank shall deliver to Boston, upon payment of the purchase price therefor, a quitclaim deed conveying to Boston the same record and marketable title to the Real Estate as was conveyed by Associates to Land Bank. Said deed shall appropriately incorporate the provisions of the Land Use Restriction Agreement referenced in Article III-B.

D: FAILURE TO PERFECT TITLE

If Land Bank shall be unable to give title to or make conveyance or deliver possession of the Real Estate, all as herein stipulated, then this Agreement shall become null and void and without legal or equitable recourse to either party. Notwithstanding the foregoing, Boston may elect (so long as Associates have agreed to do so pursuant to Article IV-D) to accept such title and possession as Land Bank can deliver with respect to the Real Estate, and to pay the purchase price therefor without allowance or deduction of any kind. Upon conveyance of the Real Estate to Boston, Land Bank shall provide Boston with a certification from Land Bank's counsel to the effect that Land Bank has full corporate authority to make such conveyance.

ARTICLE IV: CONVEYANCE FROM BOSTON TO PARTNERSHIP

A: DUTY TO CONVEY

If and only if Boston acquires title to the Real Estate in accordance with the foregoing provisions, and forthwith upon such acquisition, Boston shall sell to Partnership and Partnership shall purchase from Boston the Real Estate in accordance with the provisions hereinafter set forth. Boston shall have no liability whatsoever in the event that, for any reason other than its own default under this Agreement, Boston does not acquire title to the Real Estate.

B: PURCHASE PRICE

The agreed purchase price payable by Partnership for the Real Estate is an amount equal to the total purchase price paid by Boston to acquire the Real Estate from Land Bank as provided in Article III-B. Said purchase price is to be paid through the assumption by Partnership, in the deed conveying the Real Estate to Partnership, of the promissory note, purchase money mortgage and Land Use Restriction Agreement executed by Boston pursuant to Article III-B. Said assumption shall be in form and substance satisfactory to Land Bank.

C: CONDITION AND POSSESSION; CONVEYANCE

(a) The Real Estate shall, at the time of the conveyance thereof to Partnership, be accepted in conformity with the provisions of Article II-B(a).

(b) At such time, Boston shall deliver to Partnership, upon payment of the purchase price therefor, a quitclaim deed

conveying to Partnership the same record and marketable title to the Real Estate as was conveyed by Land Bank to Boston, and Partnership shall deliver to Boston (i) an instrument indemnifying and saving Boston harmless against any and all liability incident to such conveyance, and (ii) an opinion of counsel that Boston's participation in such conveyance is authorized under applicable statutes.

D: FAILURE TO PERFECT TITLE

If Boston shall be unable to give title to or make conveyance or deliver possession of the Real Estate, all as herein stipulated, then this Agreement shall become null and void and without legal or equitable recourse to either party. Notwithstanding the foregoing, Partnership may elect to accept such title and possession as Boston can deliver with respect to the Real Estate, and to pay the purchase price therefor without allowance or deduction of any kind.

ARTICLE V: UDAG GRANT AND ESCROW ACCOUNTS

Associates warrants and represents that the City of Boston has been granted assistance under the Urban Development Action Grant Program established pursuant to Section 119 of the Housing and Community Development Act of 1974 pursuant to which at least $_____ in funds awarded under said Program is to be invested into an account the income from which is to reduce rents otherwise charged in connection with the proposed development of the Real Estate. In addition, certain escrow

accounts are to be established with the City of Boston in order to fund expense contingencies related to said development. All agreements and other documents evidencing or related to said Urban Development Action Grant and/or escrow accounts shall be subject to approval by Land Bank, failing which this Agreement shall, at the option of Land Bank, become null and void without legal or equitable recourse to any party.

ARTICLE VI: JOINT SECURITY ARRANGEMENTS

BayBank will be providing a portion of the long-term financing required for the rehabilitation of the Real Estate. Accordingly, Land Bank and BayBank are to enter into an intercreditor agreement governing the relative security positions of each. In the event that said intercreditor agreement shall not have been entered into by said parties prior to the date of conveyance to Land Bank as provided in Article II-C, this Agreement shall, at the option of Land Bank, become null and void without legal or equitable recourse to any party.

ARTICLE VII: BROKERS

Associates shall indemnify and save each other party hereto harmless against all claims made for a commission in connection with the transactions described in this Agreement.

ARTICLE VIII: RECORDING FEES

Associates shall pay all taxes imposed on all transactions described in this Agreement and shall obtain at its own expense and affix to all instruments of conveyance and security documents such revenue and documentary stamps as may be required by law. All instruments of conveyance and security documents shall be placed on record in the manner prescribed by applicable statutes at the expense of Associates.

ARTICLE IX: CONSTRUCTION OF AGREEMENT

This instrument, executed in triplicate, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth (together with all attached Schedules and Exhibits, which are made a part hereof) the entire agreement between the parties, is binding upon and enures to the benefit of the parties hereto and their respective successors and assigns, and may be cancelled, modified or amended (except as otherwise herein provided) only by a written instrument executed by all parties. Notwithstanding the foregoing, this Agreement may not be assigned by Boston or Associates or Partnership without the prior written approval of Land Bank.

ARTICLE X: PROVISIONS APPLICABLE TO BOND FUNDING

(a) Certain bonds (hereinafter referred to as the "Bonds") have been or will be issued on behalf of Land Bank by The Commonwealth of Massachusetts in connection with the purchase,

repurchase and mortgaging of the Real Estate pursuant to the provisions of this Agreement. Land Bank shall not be obligated to purchase the Real Estate unless (i) Land Bank receives an opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. acting as bond counsel for the Commonwealth to the effect that, without qualification, the Bonds are valid and binding general obligations of the Commonwealth; (ii) Land Bank receives from the Treasurer of the Commonwealth the proceeds from the sale of the Bonds.

ARTICLE XI: NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be deemed given when delivered in hand or mailed by certified or registered mail, postage pre-paid,

if to Land Bank, to:

Executive Director
Government Land Bank
Suite 900
Six Beacon Street
Boston, Massachusetts 02108

if to Boston, to:

Boston Redevelopment Authority
City Hall
1 City Hall Square
Boston, Massachusetts 02201

and if to Associates or Partnership, to:

Lower Mills Associates/Lower Mills Limited Partnership
c/o Housing Associates
883 Massachusetts Avenue
Cambridge, Massachusetts 02139
Attention: Robert H. Kuehn, Jr.

or to such other address notice of which is given as set forth above by any party to the others.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

GOVERNMENT LAND BANK

By_____

Its_____

BOSTON REDEVELOPMENT AUTHORITY

By_____

Its_____

LOWER MILLS ASSOCIATES

By_____

Its_____

LOWER MILLS LIMITED PARTNERSHIP

By_____

Its_____

SCHEDULE A
DESCRIPTION OF REAL ESTATE

SCHEDULE B
DESCRIPTION OF WORK

[In the event that final, working plans and specifications setting forth the work to be performed by Associates are not available at the time of execution of this Agreement, said plans and specifications shall, when completed, be subject to the approval of Land Bank.]

EXHIBIT 1

REDEVELOPMENT PLAN

[Exhibit 1 is not reproduced herein but has been separately initialled by the parties.]

EXHIBIT 2

GUIDELINES

1. All projects undertaken by the Land Bank and participating agencies shall be of public benefit and for a public purpose, and must reasonably be expected to contribute to the development or redevelopment of decadent, substandard or blighted open areas within the Commonwealth.

2. No redevelopment plan shall be approved by the Land Bank unless it is demonstrated that there is a reasonable likelihood that the project will be successful should funding become available.

3. No redevelopment plan shall be approved by Land Bank until Land Bank determined that its participation is necessary for the successful completion of the project. In this respect, Land Bank shall look to the availability of funding in the traditional capital markets and, if available, whether credit has been offered on terms which would preclude the project's success.

4. No redevelopment plan shall be approved by Land Bank until there has been first furnished to Land Bank an opinion of acceptable counsel that the participating agency's participation in the project is authorized under all relevant statutes.

5. Any mortgage between Land Bank and a participating agency must contain the following covenants:

   a. That the current mortgagor will file adequate financial reports with the Land Bank. Such reports may take the form of periodic or annual audits.

   b. That all major transactions by the current mortgagor shall be approved by Land Bank. Such transactions shall include, but are not limited to, any sale, merger, dissolution, or corporate reorganization.

   c. That any later sale of the property will in no way affect the participating agency's duty to oversee the implementation of the redevelopment plan.

6. No property shall be purchased by Land Bank pursuant to an approved redevelopment plan until there has been first furnished to Land Bank an opinion of acceptable counsel that improvements called for in the redevelopment plan conform to all applicable laws, including, but not limited to, environmental, zoning, building, planning, and sanitation laws.

EXHIBIT 3

TITLE INSURANCE POLICY

EXHIBIT 4

MORTGAGE NOTE

FOR VALUE RECEIVED, the BOSTON REDEVELOPMENT AUTHORITY, a body politic and corporate established pursuant to Chapter 121B of the General Laws, as amended, having its principal place of business at City Hall, Boston, Massachusetts (the "Maker", which expression will, when the context so admits, mean and refer to any subsequent owner of the Mortgaged Premises) promises to pay to the GOVERNMENT LAND BANK, a Massachusetts body politic and corporate created by Chapter 212 of the Acts of 1975, as amended, and having its principal place of business at Six Beacon Street, Boston, Massachusetts (the "Payee") or its order, the principal sum of Two Million, Eighteen Thousand, One Hundred Dollars ($2,018,100) payable on _____ and bearing interest at the rate of _____ per cent (__%) per annum on the amount of principal from time to time remaining unpaid.

Such interest will be payable as follows. On the _____ day of each month from _____ through _____ the Maker will make a payment of interest at the rate of _____ per cent (_%) per annum applied to the amount of principal remaining unpaid during the preceding month, calculated on a daily basis, in arrears.

On account of the difference between the rate of interest of _____ per cent (__%) provided for herein and the monthly payments at the rate of _____ per cent (_%), the Maker will make additional payments of interest calculated as follows: No

later than July 1 in each year beginning in 1986 the Payee, after consulting with the Maker will estimate the Net Cash Flow from the Mortgaged Premises for the twelve-month period commencing with _____ next following, and will notify such owner of such estimated Net Cash Flow. In estimating such Net Cash Flow the Payee will take into acccount rent increases commensurate with increases in operating expenses and a vacancy rate of four per cent (4%). If, in respect of any such twelve-month period, the Payee estimates the Net Cash Flow will be in excess of $15,000, the Maker will pay, on the _____ day of each month commencing with the _____ of _____ next following through the _____ of _____ thereafter an amount equal to one-twelfth of such excess, but no such monthly payment will exceed a sum equal to one-half of one-percent times the maximum amount of principal outstanding during the month preceding the date of such monthly payment. Such monthly payments will be made and received on account of interest due hereunder.

Or _____, ____ the Maker will pay to the Payee, to complete the payment of interest herein provided for, an amount equal to interest on the amount of principal from time to time remaining unpaid, calculated on a daily basis, in arrears, at the rate of eleven per cent per annum, not compounded, less the total of all payments of interest theretofore paid by the Maker to the Payee.

If the total of such payments shall exceed interest at the rate at eleven per cent per annum, calculated as above provided, the principal payment then due will be reduced by an amount equal to the amount of such excess.

The term "Net Cash Flow" as used herein, shall mean all operating revenues, including Net Investment Income, as defined in the Escrow Agreement, dated _____, among the City of Boston, Lower Mills Associates Limited Partnership and the First National Bank of Boston, less real estate taxes and operating expenses.

At any time and from time to time, the Maker may without premium or penalty make additional payments on account of principal in multiples of $1,000.

Whenever any day on which a payment is required to be made hereunder falls on a Sunday or a public holiday, such payment shall be due on the next following normal business day.

The sums due and payable under this Note and the Mortgage securing the same, are payable at the office of the Payee indicated above or at such other place or places as the Payee, its successors or assigns, may designate to the Maker in writing from time to time, in legal tender of the United States of America.

This Note is secured by a Mortgage of even date herewith of certain real property of the Maker in the City of Boston, Suffolk County, of Massachusetts, more particularly described in said Mortgage (the "Mortgaged Premises"). The Payee shall

look only to said property for payment or performance of any obligation of the Maker hereunder, and in no event shall the Maker have any personal liability for the payment of any sums which may become due hereunder.

Upon the occurrence of any one or more of the following events of default:

1. default in making payment of any installment of interest due hereunder or any other indebtedness of the Maker to the Payee for more than thirty (30) days after the date when the same shall become due and payable, whether at the due date thereof or by acceleration or otherwise;

2. default in the performance of any of the covenants and conditions of said Mortgage or any other instrument now or hereafter securing this Note, all of which are hereby incorporated in this Note as if set forth at length herein, if such default shall have continued for a period of fifteen (15) days after written notice of such default shall have been furnished to the Maker at its address as set forth above or such other address of which the holder has been notified in writing, unless such default is incapable of cure within said fifteen (15) day period, in which event the maker shall not be in default if during said fifteen (15) day period the maker commences to cure such default and diligently proceeds to effect such cure during the period required therefor immediately thereafter; or

3. the dissolution, termination of existence or the appointment of a permanent receiver for the Maker or for any of the property of the Maker, or an assignment for the benefit of creditors by the Maker, or the filing of a petition under any bankruptcy, receivership, insolvency or debtor relief law by the Maker or a petition for any adjustment of indebtedness, reorganization, composition or extension by the Maker or the dependency of any such petition against the Maker, or any other person or corporation now or hereafter liable, absolutely or contingently, for the payment of the whole or any part of the Note, such petition remaining undismissed for a period of sixty (60) days;

this Note shall, at the option of the holder, become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Maker. The holder's failure to exercise such option shall not constitute a waiver of the right to exercise same at any other time. Irrespective of the exercise or non-exercise of the foregoing option, in the event that any payment herein provided for shall become overdue for a period in excess of fifteen (15) days, a late charge of four cents ($.04) for each one dollar ($1.00) overdue shall become immediately due to the holder hereof as liquidated damages for failure to make prompt payment, and the same shall be secured by said Mortgage. Said charge shall be payable in any event not later than the due date of the next subsequent installment.

No renewal or extension granted, nor any indulgence shown to, nor any release of the Maker, nor any dealings with any holder hereof or any person now or hereafter interested herein or in the property securing this Note, whether as owner, encumbrancer or otherwise, shall discharge, extend or in any way affect the obligations of the Maker hereunder.

The Maker agrees to pay all costs and attorneys' fees incurred in any action to collect this Note and to foreclose the Mortgage securing the same, or either.

IN WITNESS WHEREOF, the Boston Redevelopment Authority has caused its corporate name to be hereto subscribed and its corporate seal to be hereto affixed by its proper corporate officer, hereunto duly authorized, on this ____ day of _____, 198_.

BOSTON REDEVELOPMENT AUTHORITY

Attest: By_____

_____ Its_____

duly-authorized

EXHIBIT 5

MORTGAGE

THE BOSTON REDEVELOPMENT AUTHORITY, a body politic and corporate established pursuant to Chapter 121B of the General Laws, as amended (hereinafter called the "Mortgagor"), for consideration paid, grants to GOVERNMENT LAND BANK, a Massachusetts corporation created by Chapter 212 of the Acts of 1975, as amended, and having its principal place of business in said Boston (hereinafter called the "Mortgagee"), with MORTGAGE COVENANTS to secure the payment of a certain sum, together with interest thereon, all as provided in one certain promissory note of the Mortgagor of even date herewith, payable to the order of the Mortgagee (hereinafter referred to as the "Note") and to secure the payment and observance of all covenants, agreements and conditions contained or referred to herein or in the Note and the performance of all other obligations of the Mortgagor to Mortgagee, certain real estate, together with all buildings and improvements now or hereafter constructed, installed or located thereon (hereinafter collectively referred to as the "Mortgaged Premises"), located in the City of Boston, Suffolk County, Massachusetts, and more particularly bounded and described as set forth on Schedule A attached hereto and made a part hereof. The Land Use Restriction Agreement between the parties of even date herewith (hereinafter referred to as the "Agreement") is hereby made a part of this Mortgage and the provisions of the Agreement shall (except where the context otherwise requires) be deemed incorporated herein for all purposes.

The Mortgagor further covenants and agrees as follows:

1. To perform and observe all the terms and conditions of this Mortgage, the Note, the Land Use Restriction Agreement and any other instrument given to secure the Note, provided however that the Mortgagee shall look only to the Mortgaged Premises for payment or performance of any obligation of the Mortgagor hereunder, and in no event shall the Mortgagor have any personal liability for any such payment or performance.

2. To pay the Mortgagee, on demand, in addition to the payments required by the Note, a monthly apportionment of the sum estimated by the Mortgagee to be sufficient to make all payments for taxes, charges and assessments upon the Mortgaged Premises, if any, as they become due and any balance necessary to pay, when due, all such taxes, charges and assessments.

3. Not without the prior written consent of the Mortgagee, to convey any part or all of the Mortgaged Premises, nor mortgage the same nor any part or all of them, provided however that the dedication of the Mortgaged Premises to the condominium form of ownership pursuant to documents reasonably satisfactory to the Mortgagee shall not be prohibited so long as the Mortgaged Premises continues to be operated as a rental housing project in conformity with the provisions of this Mortgage and the Redevelopment Plan hereinafter referred to.

4. Not without the prior written consent of the Mortgagee, to enter into a lease of any part or all of the Mortgaged Premises except in conformity with the provisions of the Redevelopment Plan hereinafter referred to.

On demand, the Mortgagor shall deliver to the Mortgagee assignments of any and all leases of any part or all of the Mortgaged Premises, such assignments to be made by instruments in form reasonably satisfactory to the Mortgagee. The consent by the Mortgagee to any such lease requiring its consent or the execution by the Mortgagor of any such lease not requiring the consent of the Mortgagee shall not constitute an agreement on the part of the Mortgagee to recognize such lease and the rights of the lessee thereunder after a foreclosure of this Mortgage. The Mortgagee shall not be required to recognize any lease of all or any part of the Mortgaged Premises or the rights of the lessee thereunder after foreclosure unless the Mortgagee shall have executed a separate explicit agreement to that effect.

5. To use and improve the Mortgaged Premises only in a way which (a) complies with the Redevelopment Plan heretofore approved by the Mortgagee, as from time to time amended, (b) maintains the parking facilities and improvements required by the provisions of the Purchase and Repurchase Agreement pursuant to which the Mortgaged Premises were originally conveyed to the Mortgagee, (c) facilitates the

operation of the Mortgaged Premises as profitably as possible, (d) complies with the terms and conditions under which financial assistance pursuant to the federal Urban Development Action Grant Program and other sources has been made available in connection with the Mortgaged Premises, and (e) complies with the provisions of the Agreement and all other provisions of this Mortgage. The average monthly rental (excluding utility costs) of a unit in the Mortgaged Premises shall not exceed $___ with respect to the first year of operation following the date hereof. Future rent increases shall be commensurate with increases in operating expenses (excluding percentage increases in management fees) incurred by the Mortgagor with respect to the period following said first year of operation and certified to the reasonable satisfaction of the Mortgagee.

6. To insure or cause to be insured, in sums and with companies reasonably satisfactory to the Mortgagee and for the Mortgagee's benefit, the buildings now or hereafter standing on the Mortgaged Premises against fire, with the usual extended coverage endorsement, and such other hazards, casualties and contingencies as the Mortgagee may from time to time reasonably direct, and to deposit, on demand, all such insurance policies or certificates thereof with the Mortgagee, the same to be made payable in case of loss to the Mortgagee.

7. That a foreclosure of this Mortgage shall forever bar the Mortgagor or persons claiming under the Mortgagor from all right, title and interest in and to any or all of such insurance policies at the time of such foreclosure, including all rights to return premiums on cancellation.

8. That the Mortgagor will not make or permit to be made any structural alterations or additions on the Mortgaged Premises without the prior written consent of the Mortgagee, and will keep all and singular the Mortgaged Premises in such repair, order and tenantable condition as the same are now or may hereafter be put in while this Mortgage is outstanding, damage by fire or casualty being expressly not excepted. In the event, however, that the Mortgaged Premises are damaged by fire or any casualty covered by insurance, the Mortgagor shall, within forty-five (45) days of such damage, commence the rebuilding or restoration of the same or the replacement thereof and diligently process such rebuilding, restoration or replacement to completion, rebuilding or restoring the same to substantially its condition immediately prior to such damage or replacing the same with an improvement of like value and utility. The Mortgagee agrees, provided no default exists under this Mortgage, the Note or any other instrument securing the same, to disburse the insurance money received or held by it to the Mortgagor as such rebuilding, restoration or replacement progresses and, after completion

of such rebuilding, restoration or replacement, if any insurance money is still undisbursed, to pay over any balance thereof to the Mortgagor. If, however, the Mortgagor shall, for any reason, decide not so to rebuild, restore or replace and shall notify the Mortgagee in writing of such decision within thirty (30) days of such damage and, if the Mortgagee shall, for any reason, decide not to enforce the Mortgagor's obligation to rebuild, restore or replace as hereinabove provided, then, at the Mortgagee's option, the Mortgagee shall have the right to apply any insurance money received or held by it on account of the mortgage debt hereby secured, paying over any balance thereof to the Mortgagor. The Mortgagor will not make or agree to any final settlement of any claim for damages covered by insurance without the written consent of the Mortgagee, which consent shall not be unreasonably withheld.

9. The Mortgagor will not use or permit the Mortgaged Premises to be used in violation of any law or municipal ordinance or regulation, including zoning and building laws and regulations, or for any unlawful or improper purpose.

10. In case of default in any condition of this Mortgage or the Note or any other instrument securing the same, the Mortgagee may apply toward any indebtedness secured hereby or payable hereunder any deposits or any sums credited by or due from the Mortgagee to the Mortgagor or any other security held by the Mortgagee as security therefor without

first enforcing any other rights of the Mortgagee against the Mortgagor, against any endorser or guarantor of the Mortgage Note or against the Mortgaged Premises. After default and whether foreclosure has begun or not, if such default is waived by the Mortgagee, the Mortgagee shall be entitled to collect at that time all reasonable costs, charges and expenses, including reasonable attorneys fees, incurred by the Mortgagee up to the time of such waiver or default.

11. The Mortgagor will pay on demand to the Mortgagee or the Mortgagee may, at its option, add to the principal balance then due (a) any sums advanced or paid to the Mortgagee on account of any default of whatever nature by the Mortgagor, (b) any sums advanced or paid, whether before or after default, for or in lieu of taxes, assessments, water rates, repairs, improvements or insurance, or (c) any sums paid by the Mortgagee, including reasonable attorneys fees, in prosecuting, defending or intervening in any legal or equitable proceeding wherein the Mortgagee deems any of the rights created by this Mortgage to be jeopardized or in issue.

12. That upon default of any condition of this Mortgage, the Note or any other instrument securing the same, the entire mortgage debt will become immediately due and payable at the option of the Mortgagee, subject to any right which the Mortgagor may have to cure such default.

13. Not without the prior written consent of the Mortgagee, to permit the ownership of the Mortgaged Premises or any part thereof to become vested in any entity other than the Mortgagor or to permit any further mortgage or voluntary encumbrance to be placed on the Mortgaged Premises by the Mortgagor, or to permit the merger, dissolution or reorganization of any entity comprising the Mortgagor; in any such event, and at any time thereafter, at the option of the Mortgagee, the entire balance of the Note shall become due and payable on demand and, in addition thereto, the Mortgagee may, without notice to the Mortgagor or to any other parties liable for the payment of the Note, deal with such successor or successors in interest with reference to this Mortgage and the debt hereby secured in the same manner as with the Mortgagor or any other party liable for the payment of the Note, without in any way vitiating or discharging its or their liability hereunder (including without limitation its or their obligation to comply and enforce compliance with the Redevelopment Plan hereinabove referred to) or upon the debt hereby secured. No sale or transfer of the Mortgaged Premises and no indulgence or forebearance on the part of the Mortgagee and no extension, whether oral or in writing, of the time for the payment of the debt hereby secured and no partial release of any security or covenant not to sue any party responsible for the debt secured hereby given by the Mortgagee shall operate to

release, discharge, modify, change or affect the liability of the Mortgagor herein or any other party liable for the payment of the Note, either in whole or in part. In case redemption is had after foreclosure procedures have been begun, the Mortgagee shall be entitled to collect all costs, charges and expenses, including reasonable attorneys fees, incurred up to the time of redemption. In the case of foreclosure by sale, the Mortgagee shall be able to collect and retain one percent (1%) of the foreclosure sale price in addition to the costs, charges and expenses allowed under the statutory power of sale.

14. The Mortgagor hereby authorizes the Mortgagee to pay all taxes, assessments, water rates and other charges, with interest, costs and charges accrued thereon which may at any time be a lien upon the Mortgaged Premises or any part thereof; to pay the premiums for any insurance required hereunder; to incur and pay reasonable expenses, including reasonable attorneys fees, in protecting its rights hereunder and in the security hereby granted; to pay any balance due under any conditional agreement of sale or financing statement on any fixtures covered by this Mortgage; in the event the Note is put in the hands of an attorney for collection of all or any part of the mortgage debt to pay any reasonable attorneys fees and expenses in connection with such collection; to add all amounts so incurred, or any part thereof, to the principal sum secured

hereby and to apply to any of these purposes or to the repayment of any amounts so paid by the Mortgagee or any part thereof any sums paid hereunder by the Mortgagor.

15. The Mortgagor specifically agrees that in case the Mortgagee exercises its power of sale herein given, if the Mortgagee elects to sell in parcels, such sales may be held from time to time and the Power of Sale shall not be exhausted until all the Mortgaged Premises not previously released shall have been sold, or until all indebtedness secured hereby has been paid in full.

6. To furnish Mortgagee, as soon as the same is available, with a copy of any financial report which Mortgagor is required to prepare, and, upon the written request of Mortgagee, to furnish Mortgagee with additional financial reports, in form satisfactory to Mortgagee, prepared by a certified public accountant reasonably satisfactory to the Mortgagee; to furnish to the Mortgagee from time to time (no less frequently than annually) statements of its operations (prepared by such a certified public accountant, if Mortgagee so requires) and reports regarding the marketing and management of the Mortgaged Premises, all in such form as the Mortgagee may from time to time request; to allow the Mortgagee at any reasonable time to enter upon the Mortgaged Premises to inspect the same; and to allow the Mortgagee from time to time to inspect the books and records of the Mortgagor relating to the Mortgaged Premises, wherever such books and records may be located.

Anything contained in this Mortgage to the contrary notwithstanding, and regardless of whether the Note shall have been paid, as of the twelfth (12th) anniversary of the date hereof (or sooner with the prior written consent of the Mortgagee), all approximately eighty (80) units in the Mortgaged Premises shall be made available for purchase by tenants as condominium units at prices and on other terms reasonably satisfactory to the Mortgagee.

The Mortgagee by the acceptance of this Mortgage agrees to release portions of the Mortgaged Premises from time to time from this Mortgage upon the following terms and conditions:

A. At the time of such release the Mortgagor shall be in full compliance with all of its obligations hereunder and under the Note and under all other instruments securing said obligations.

B. There will be excluded from any such release such easements and other rights, if any, in, or, over or under the released portion as the Mortgagee deems reasonably necessary or desirable to serve the remainder of the Mortgaged Premises.

C. No such release shall be given except in connection with the sale of the parcel to be released, nor unless the entire net proceeds (the entire purchase price less reasonable and necessary expenses of the Mortgagor in making such sale, such as documentary stamps, broker's commissions and attorney's fees) are paid to the Mortgagee on account of the unpaid principal balance of the Note.

It is specifically understood and agreed that no sale of the Mortgaged Premises shall relieve the Mortgagor of its duty to oversee implementation of the Redevelopment Plan referred to in Paragraph 5 of this Mortgage.

Anything contained in this Mortgage to the contrary notwithstanding, if the Mortgagor shall at any time be a limited partnership, no transfer of limited partnership interests in the Mortgagor and no addition, subtraction or substitution of limited partners of the Mortgagor shall at any time constitute a default under this Mortgage.

This Mortgage is upon the STATUTORY CONDITION, for any breach of which or for any breach of the foregoing covenants or agreements the holder hereof shall have the STATUTORY POWER OF SALE.

IN WITNESS WHEREOF, the City of Boston has caused these presents to be signed, acknowledged and delivered in its name and behalf by its proper corporate officer, hereunto duly authorized, this day of , 198_.

BOSTON REDEVELOPMENT AUTHORITY

By_____

Its_____
duly-authorized

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. _____, 198_

Then personally appeared the above named , its , and acknowledged the foregoing instrument to be the free act and deed of the Boston Redevelopment Authority, before me,

_____
Notary Public

My commission expires _____

SCHEDULE A
DESCRIPTION OF MORTGAGED PREMISES

[to be added in form and substance consistent with Schedule A of the attached Purchase and Repurchase Agreement]

MASSACHUSETTS GOVERNMENT LAND BANK
LAND USE RESTRICTION AGREEMENT

This Land Use Restriction Agreement (this "Agreement") is entered into as of *, by and among * ("Owner"), a *, with a place of business *, The Commonwealth of Massachusetts (the "Commonwealth") and MASSACHUSETTS GOVERNMENT LAND BANK ("Land Bank"), a corporate governmental agency, constituting a public benefit corporation organized and operated under the provisions of Chapter 212 of the Acts of 1975 of the Commonwealth, as amended, (the "Enabling Act").

WITNESSETH:

WHEREAS, Owner holds or will hold legal title to certain real property upon which is to be developed or rehabilitated a housing project (the "Project"), located *, more fully described in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, the Project will be financed by a mortgage of even date herewith (the "Mortgage"), to be recorded in the land records of * County Registry of Deeds; and

WHEREAS, pursuant to the Enabling Act, the Treasurer of the Commonwealth is authorized to issue bonds on the credit of the Commonwealth for the purposes specified in said Enabling Act.

WHEREAS, the Land Bank, without regard to the term of the Obligations anticipated to be issued to finance the Mortgage, is unwilling to finance the Mortgage unless Owner, by agreeing to the restrictions running with the land set forth in this Agreement, consents to be regulated by Land Bank to preserve the tax exempt status of obligations issued by the Treasurer and Receiver General of the Commonwealth (the "Treasurer") pursuant to Section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended (the "Code") to finance the Project (the "Obligations").

NOW, THEREFORE, the parties, with intent to be legally bound, do hereby agree as follows:

1. Subordination and Termination of Agreement - This Agreement and the restrictions hereunder are subordinate to the Mortgage. This Agreement and the restrictions hereunder may cease to apply in the event of an involuntary noncompliance with the provisions hereof caused by fire, seizure, requisition, condemnation, or upon foreclosure of the Mortgage or transfer of title by deed in lieu of foreclosure, change in Federal Law or an action of a Federal agency after the date of issue of the Obligations upon a determination of the Land Bank that such cessation will prevent it from enforcing this

Agreement and will be in the interest of furthering the purposes of the Enabling Act, provided (a) the Obligations are retired at the first available call date with respect to the Obligations; or (b) any insurance proceeds or condemnation award received as a result of such loss or destruction are used to provide a project which meets the requirements of the Code; provided, however, that in the case of an event of foreclosure of the Mortgage or deed-in-lieu of foreclosure, if the obligor on the Mortgage or a related person as defined in section 103(b)(6) of the Code obtains, during the Qualified Project Period (as hereinafter defined) an ownership interest in the Project for federal tax purposes, this Agreement and the restrictions hereunder shall be revived in full force and effect.

2. Term of Restrictions - Pursuant to the requirements of the Code, the term of the occupancy restrictions set forth in Section 4 of this Agreement (the "Qualified Project Period") shall commence on the later of the first day on which 10 percent of the units in the Project are first occupied or the date of issue of the Obligations and shall end on the latest of the following (a) the date which is 10 years after the date on which 50 percent of the units in the Project are first occupied; (b) the date which is a qualified number of days (i.e., 50% of the total number of days which comprise the term

of the Obligation with the longest maturity) after the date on which any of the units in the Project are first occupied; (c) the termination date of the Housing Assistance Payments Contract, including the initial term and any renewal thereof, if the Project is funded under Section 8, or (d) the termination date of the Mortgage.

The term of all other restrictions contained in this Agreement shall remain in effect during the longer of (a) the remaining term of the Obligations; or (b) the Qualified Project Period. Upon transfer and retirement of the Obligations, the Occupancy Restrictions will be limited to the requirements of the United States Treasury Regulations published October 15, 1982 at 47 Fed. Reg. 46080 (1982), codified as Treas. Regs. §1.103-8(b) (the "Treasury Regulations").

3. Project and Rental Restrictions - The Project will be constructed or rehabilitated for the purposes of providing multi-family residential rental property and will be used for such purposes during the term of this Agreement. The Project will consist of a building or structure or several proximate buildings or structures which are located on a single tract of and/or contiguous tracts of land with or without facilities functionally related and subordinate thereto. If the Project is on scattered, non-contiguous tracts of land, the occupancy

restrictions described in paragraph 4 will be followed as if each tract were a separate Project. All of the units in the Project will be similarly constructed. Owner shall not occupy a unit in a building or structure unless such building or structure contains more than four units. All of the units in the Project will contain complete living, sleeping, eating, cooking and sanitation facilities for a single person or family. None of the units in the Project will at any time be utilized on a transient basis, or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium or rest home. Once available for occupancy each unit must be rented or available for rental on a continuous basis to members of the general public. If the Project is receiving Section 8 assistance, Owner will comply with all Section 8 requirements in administering these restrictions.

4. Occupancy Restrictions - At least 30% (or 25% if the Project is located in a Targeted Area) of the units in the Project will be maintained for occupancy by individuals or families of low or moderate income, at rental levels consistent with the terms of the Enabling Act, the Land Bank's regulations, and this Agreement. Individuals or families of "low or moderate income" are defined in the Treasury regulations in a manner consistent with Section 8 of the United

States Housing Act of 1937 (or if such program terminates under such program as was in effect immediately before such termination), except that the percentage of median gross income which qualifies as low or moderate income shall not exceed eighty percent (80%). The method of determining whether individuals or families are of low or moderate income in effect on the date of issue of the Obligations will be determinative even if such method is subsequently changed.

In order to assure compliance with the Code, a unit occupied by an individual or family who at the commencement of the occupancy was of low or moderate income shall be treated as occupied by such individual or family during their tenancy in such unit, even though they subsequently cease to be of low or moderate income. A unit shall be treated as occupied by an individual or family of low or moderate income until occupied, other than for a temporary period not to exceed 31 days, by another occupant, at which time the character of the unit shall be redetermined.

The lease shall provide for termination and eviction if a tenant has certified that he or she is an individual or family of low and moderate income, and has failed to so qualify, at the time of commencement of the occupancy. The form of lease to be utilized by Owner in renting all dwelling units in the Project shall be subject to Land Bank's approval.

5. Transfer Restrictions - Prior to any transfer of the Project, Owner agrees to secure from transferee a written agreement stating that transferee will assume in full Owner's obligations and duties under this Agreement.

6. Information - Owner covenants and agrees to secure and maintain on file for inspection and copying by Land Bank such information, reports and certifications as Land Bank may require in writing including those attached hereto as Exhibits B and C. Owner further convenants and agrees to submit to Land Bank annually, or more frequently if required in writing by Land Bank, reports detailing such facts as Land Bank determines are sufficient to establish compliance with the restrictions contained hereunder. Owner further covenants and agrees promptly to notify Land Bank if Owner discovers noncompliance with any restriction hereunder.

7. Interpretations - Except where the context otherwise requires, terms used in this Agreement shall have the same meanings given to such terms in the Treasury Regulations. In the event of a transfer of the Project, the term "Owner" shall be construed to include any transferee.

8. Amendment - This Agreement may not be amended without first obtaining an opinion of an attorney or firm of attorneys of nationally recognized standing in the field of municipal finance that such amendment will not adversely affect the exemption from federal income taxation of interest on the Obligations.

9. Enforcement - Upon violation of any of the provisions of this Agreement by Owner, Land Bank or the Commonwealth, at their respective options, may apply to any court, State or Federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, of for such other relief as may be appropriate, since the injury to Land Bank and the Treasurer or the Commonwealth arising from the default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain and may not be compensable by money alone. No act or omission by Land Bank other than a writing signed by it waiving a breach by Owner, shall constitute a waiver thereof.

10. Notices - All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses first set forth, or to such other place as Land Bank or Owner from time to time designate in writing.

11. Severability - All rights, powers and remedies provided herein may be exercised only to the extent that exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable or not entitled to be recorded, registered, or filed under applicable law. If any provision or part thereof shall be affected by such holding and the validity of other provisions of this Agreement and of the balance of any provision held to be invalid, illegal or unenforceable in part only, shall in no way be affected thereby, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or part thereof has not been contained therein.

12. Governing Law - This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

13. Recording - The benefits and burdens of this Agreement shall run with and bind the land upon which the Project is constructed. Owner, at its cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations, as may be required by law in order to establish, preserve and protect the ability of the Land Bank to enforce this Agreement.

IN WITNESS WHEREOF, the parties have caused this Land Use Restriction Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

OWNER

By: _____

MASSACHUSETTS GOVERNMENT LAND BANK

By: _____
Jeffrey A. Simon, Executive Director

THE COMMONWEALTH OF MASSACHUSETTS

By: THE TREASURER and
RECEIVER GENERAL

By: _____
Deputy Treasurer

COMMONWEALTH OF MASSACHUSETTS

, 198

Suffolk, ss.

Then personally came * and declared the foregoing to be his free a and deed and the free act and deed of said entity.

Before me,

_____
Notary Public
My commission expires:

0440C